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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/624,005

07/21/2003

Kouichi Miyamoto

AA-599

5631

27752

7590

02/23/2006

THE PROCTER & GAMBLE COMPANY
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EXAMINER

BRITTAIN, JAMES R

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/624,005	Applicant(s) MIYAMOTO ET AL.	
	Examiner James R. Brittain	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Appendix</u> . |

DETAILED ACTION

Request for Continued Examination

A request for continued examination under 37 CFR 1.114 including the fee set forth in 37 CFR 1.17(e) was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17 (e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 5, 2005 has been entered.

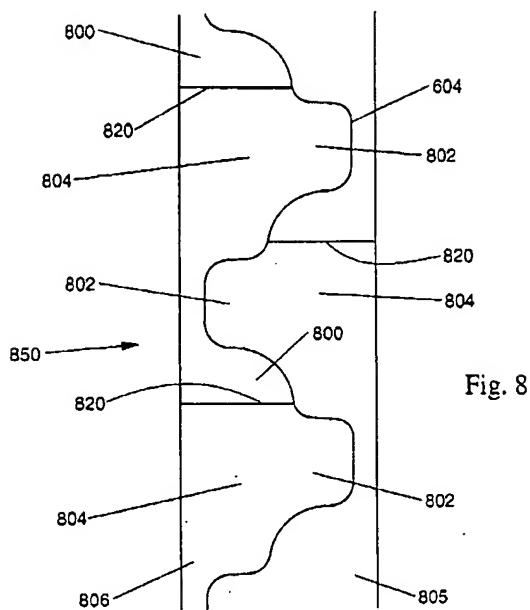
Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. §103(a) as being unpatentable over Nease et al. (US 5580411).

Nease et al. (figure 8) teaches fastening member structure including a member extending in the longitudinal and lateral direction and further being asymmetric with respect to the lateral centerline and symmetric with respect to the longitudinal centerline. While the particular exact measurements are not clearly shown, it would appear that the key asymmetry and symmetry are suggested by the fastening tab of Nease. Any slight change would appear to be obvious over the teaching of Nease. An Appendix has been included to show the downward translation and the symmetry by showing an annotated figure 8 comparable to applicant's figure 7.



In regard to claim 6, the proximal portion of the shaped tab has a recess. As to claims 7 and 8, all corners of the tab are rounded and since upper and lower are dependent on orientation and the radii of curvature of the corners of the device of Nease et al. are different, the subject matter of these claims is obvious. In regard to claim 9, fastening material is disposed on the tab of Nease et al. As to claim 10, the tabs are stretchable as is common in the art as indicated by Nease et al. in column 5, lines 11-50.

Claims 2-5 are rejected under 35 U.S.C. §103(a) as being unpatentable over Nease et al. (US 5580411) as applied to claim 1 above, and further in view of Provost (US 4670960).

Further modification of the fastening member structure of Nease et al. such that the distances and angles are as claimed would have been obvious in view of the lobed fastener of Provost (figure 11) who appears to teach such relationships in the asymmetric lobed fastener found at the bottom of the grouping.

Response to Arguments

Applicant's arguments filed February 25, 2005 have been fully considered but they are not persuasive. Applicant argues that the "panel" of Nease does not comprise a tab. Applicant's claim provides no discriminant between the tab and a panel. Applicant is not claiming the garment in combination and the panel and tab are shown by a single fastener of the stock material element in figure 8 prior to being separated to form the two tabs of figure 9. The tab is integral with the panel and is met by the structure of Nease. There are upper and lower edges that are parallel and define a length and clearly there are intermediate lengths of the tab that are shorter. Applicant provides no structural argument, simply a semantic argument directed to the language Nease happened to use to describe his structure. All the benefits inherent in the structure of the device of Nease are fully applicable to the structure of applicant's device. There is no claimed improvement over that disclosed by Nease and the device of Nease is used as a fastener member. The efficiencies of the claimed shape are clearly shown by Nease and are inherent therein. Applicant is simply claiming stock material and this stock material is shown in figure 8 of Nease. Applicant argues that Provost adds nothing additional, but this argument again relies on indicating that in applicant's view the device of Nease does not suggest the structure of applicant's device and this is not persuasive.

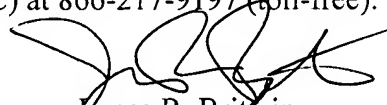
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain
Primary Examiner
Art Unit 3677

JRB

